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APR 10 2006

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

KENNETH ALAN SIERRA,
Plaintiff,
v.
TERHUNE, Director, and
WOODFORD, Acting Director,
California Department of Corrections
and Rehabilitation, Sacramento; and
AUGIE LOPEZ, Associate Warden;
JOE McGRAH, Associate Warden;
CAMBRA, Warden; AYERS, Warden
(A); STOGEY LABANS, Investigative
Services; PATTON, Investigative
Services; JOHNSON, Investigative
Services; JACKSON, Investigative
Services; MILLER, Investigative
Services; HERNANDEZ, Correctional
Officer; Lieutenant CARPENTER;
Lieutenant CRANDALL; Sergeant
WHITFORD; ARNESON,
Investigative Services; ANDERSON,
Investigative Services; Captain
JOURDEN; J. B. WILLIAMS,
Investigative Services; Correctional
Officer McCUBBANS; Captain
WILLIAMSON; HAMMOND,
Investigative Services; Captain JANE
DOE; Captain JANE DOE; JANE
DOE, Psychiatrist; DR. COOPER;
Correctional Officer ROBINSON;
BARNSEBURG, Investigative
Services; Correctional Officer
VARGAS; Correctional Officer
CHRISTOPHERSON; Chief Medical
Officer ASTORIA; Correctional

No. C 05-4261 WHA (PR)
**DISMISSAL WITH LEAVE TO
AMEND**
(Docs &)

1 Officer WAISH; Captain JOHN DOE;
2 Correctional Officer COE; Sergeant
3 BUYLL, all at Pelican Bay State
Prison; and JOHN DOE, Warden;
4 JOHN DOE, Chief Medical Officer;
JOHN DOE, Counselor; JOHN DOE,
Counselor; JOHN DOE, Associate
Warden; JOHN DOE, Captain; JOHN
DOE, Lieutenant; JOHN DOE,
Sergeant, all at San Quentin State
Prison,

7 Defendants.
8 _____ /

9 Plaintiff, an inmate at Corcoran State Prison, has filed a pro se civil rights complaint
10 under 42 U.S.C. § 1983. Plaintiff also requests leave to proceed in forma pauperis.

11 DISCUSSION

12 A. Standard of Review

13 Federal courts must engage in a preliminary screening of cases in which prisoners seek
14 redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. §
15 1915A(a). In its review the court must identify any cognizable claims, and dismiss any claims
16 which are frivolous, malicious, fail to state a claim upon which relief may be granted, or seek
17 monetary relief from a defendant who is immune from such relief. *Id.* at 1915A(b)(1),(2). Pro
18 se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 699
19 (9th Cir. 1990).

20 To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two essential elements:
21 (1) that a right secured by the Constitution or laws of the United States was violated, and (2)
22 that the violation was committed by a person acting under the color of state law. *West v. Atkins*,
23 487 U.S. 42, 48 (1988).

24 B. Legal Claims

25 Plaintiff contends that the Pelican Bay defendants caused him to be placed on a yard
26 from which he had been removed for his own safety. As a result he was stabbed.

27 He asserts that the San Quentin defendants violated an order for transfer to a medical
28 facility. The claims against San Quentin defendants are not related to those against the Pelican

1 Bay defendants, so they are not properly joined. *See* Fed. R.Civ.P. 20(a). They will be
2 dismissed without prejudice to bringing them in a separate lawsuit.

3 Plaintiff's claims against the Pelican Bay defendants are conclusory. He does not say
4 what defendants actually did, nor does he give any indication when they did it. He must plead
5 facts regarding each defendant's actions, and provide enough information, such as at least an
6 approximate time as to each claim against each defendant, so defendants can answer. In
7 addition, he has not provided any allegations at all regarding the Sacramento defendants,
8 Terhune and Woodford. These claims will be dismissed with leave to amend.

9 **CONCLUSION**

10 1. Plaintiff's claims against the San Quentin defendants are **DISMISSED** without
11 prejudice to bringing them in a separate lawsuit.

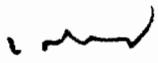
12 2. Plaintiff's remaining claims are hereby **DISMISSED** with leave to amend, as indicated
13 above, within thirty days from the date of this order. The amended complaint must include the
14 caption and civil case number used in this order and the words AMENDED COMPLAINT on
15 the first page. Because an amended complaint completely replaces the original complaint,
16 plaintiff must include in it all the claims he wishes to present. *See Ferdik v. Bonzelet*, 963 F.2d
17 1258, 1262 (9th Cir. 1992). He may not incorporate material from the original complaint by
18 reference. Failure to amend within the designated time will result in the dismissal of the case.

19 3. It is the plaintiff's responsibility to prosecute this case. Plaintiff must keep the court
20 informed of any change of address by filing with the clerk a separate paper headed "Notice of
21 Change of Address." Papers intended to be filed in this case should be addressed to the clerk
22 and not to the undersigned. Petitioner also must comply with the Court's orders in a timely
23 fashion. Failure to do so may result in the dismissal of this action for failure to prosecute
24 pursuant to Federal Rule of Civil Procedure 41(b).

25 **IT IS SO ORDERED.**

26 Dated: April 10, 2006.

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28 
WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE